

**STATE WATER RESOURCES CONTROL BOARD**

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**FEB 28 1989**

**STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS**

**ORDER ALLOWING CONDITIONAL TEMPORARY URGENCY CHANGES  
IN POINTS OF DIVERSION, POINT OF REDIVERSION,  
AND REDISTRIBUTION OF STORAGE**

**TEMPORARY PERMIT 20264 (APPLICATION 29243) OF EL DORADO IRRIGATION  
DISTRICT**

**WHEREAS:**

1. El Dorado Irrigation District (EID) receives a major portion of its water supply from U.S. Bureau of Reclamation's (USBR) Jenkinson Lake (also known as Sly Park Reservoir) under USBR water right Licenses 11835 & 11836 (Applications 2270 & 5645A). About 23,000 ac-ft of water stored in Jenkinson Lake is available to EID in a normal year under a contractual agreement with the USBR.
2. Critically dry water conditions during 1987 and 1988 have resulted in increased demand and extremely low reservoir storage conditions for EID. During 1988, EID implemented a stringent phased water conservation rationing program which is still in effect.
3. Due to the existing and projected deficiency of water supplies within the Cosumnes River drainage basin, on March 29, 1988, EID executed a supplemental agreement with the Pacific Gas & Electric Company (PG&E), whereby PG&E would convey, on a one time basis, up to 5,000 acre-feet (af) of additional water through its El Dorado Canal for EID use. The 5,000 af would be in addition to the 15,080 af that EID is entitled to from the South Fork American River under their 1919 PG&E agreement. Under the 1988 agreement PG&E would divert from the South Fork American River at Kyburz into the El Dorado Canal at the same rate and under the same conditions as it would under FERC Project No. 184.
4. On September 13, 1988, the District obtained Temporary Permit 20264 to divert and store the 5,000 af of imported water in the U.S. Bureau of Reclamation's reservoir at Jenkinson Lake, behind Sly Park Dam. The permit allows water to be diverted from the South Fork American River and Alder Creek at the maximum rate of diversion to offstream storage of 50 cubic feet per second (cfs). The water is being conveyed to Jenkinson Lake by means of the existing Pacific Gas and Electric Company (PG&E) El Dorado Canal which diverts water from the South Fork American River near Kyburz and the recently completed Hazel Creek Tunnel which conveys El Dorado Canal water into Hazel Creek, which flows into Jenkinson Lake. Temporary Permit 20264 expires February 28, 1989.

5. Do to the extreme cold weather earlier this winter, the El Dorado Canal froze, therefore, only about 4,400 af of the planned 5,000 af could be conveyed to storage in Jenkinson Lake before the Temporary Permit 20264 expires.
6. So far, 1989 has also been very dry with storms producing little or no runoff in the Cosumnes River Basin. This has resulted in a extremely critical low water supply situation for El Dorado Irrigation District in 1989 and an urgent need for all the of water sought under Temporary Permit 20264.
7. On February 27, 1989, El Dorado Irrigation District filed a Temporary Urgency Change Petition with the State Water Resources Control Board (Board) under Section 1435 of the Water Code. The petition requests a temporary change to allow the District to store the remaining 600 af of water authorized by Temporary Permit 20264 in PG&E's Caples and/or Silver Lakes until it can be transferred to Jenkinson Lake.
8. The water will be released from Caples and/or Silver Lakes for ultimate use in the District's service area. To make this transfer, the water will be released from the lakes into the Silver Fork of the American River and rediverted into PG&E Company's El Dorado Canal near Kyburz at a rate of 50 cfs. From the canal, the water will be routed though the tunnel into Hazel Creek and flow down to Jenkinson Lake for regulation before entering the Camino Conduit for service within the District.

#### ARRANGEMENTS WITH PG&E:

9. In a letter dated February 3, 1989, PG&E agreed to deliver up to 600 af of water, available under Temporary Permit 20264 and this temporary urgency change, from storage in Caples and Silver Lakes, into Hazel Creek Tunnel consistent with their October 26, 1988 Operation Agreement for Hazel Creek Tunnel Outlet and the March 29, 1988, Emergency Water Supply Agreement.

#### FINDING RELATED TO THE DEPARTMENT OF FISH AND GAME:

10. The Department of Fish and Game has been contacted and they have no objections to this temporary urgency change.

#### CALIFORNIA ENVIRONMENT QUALITY ACT:

11. The El Dorado Irrigation District has declared a drought emergency and has exempted this project from the California Environmental Quality Act in accordance with 15269(c) of Title 14 of the California Code of Regulations. The Board concurs with the declaration.

## CONCLUSIONS:

12. El Dorado Irrigation District has a Temporary Urgency need to add Points of Diversion at Caples Lake and Silver Lake and to redistribute 600 af of storage so that the water can be temporarily stored and transferred to Jenkinson Lake after Temporary Permit 29243 expires on February 28, 1989.
13. The temporary urgency change described in this order is in the public interest, does not constitute the initiation of a new right, nor operate to the injury of any other lawful user of water and will not unreasonably affect fish, wildlife or other instream beneficial uses.
14. In accordance with the authorization in Water Code Section 1435(d), the Board has adopted Resolution No. 84-2 delegating to an individual Board member authority to approve temporary urgency changes where no detrimental effects are anticipated. The Board shall review and validate, not later than 30 days following issuance, any such Temporary Urgency Change Order.

## NOW, THEREFORE, IT IS ORDERED THAT:

1. Six hundred af (of the 5,000 af of water authorized to be stored in Jenkinson Lake under Temporary Permit 20264) may be temporarily stored at PG&E's Caples and/or Silver Lakes for release and transfer to Jenkinson Lake before March 10, 1989.
2. The additional authorized points of diversion to temporary storage are located at Caples and Silver Lakes as described below:

Caples Lake Main Dam: North 77° 59' West, 4,300 feet from SE corner of Section 18, T10N, R18E, MDB&M, being within the SW¼ of SW¼ of said Section 18; and

Silver Lake Dam: North 65° 30' East, 3,200 feet from the SW corner of Section 32, T10N, R17E, MDB&M, being within the NW¼ of SE¼ of Said Section 18.
3. The additional point of rediverion is authorized from the South Fork American River at Kyburz and described as follows:

North 52° 02' West, 1,596.7 feet from SE corner of Section 29, T11N, R15E, MDB&M, being within the SE¼ of SE¼ of said Section 32.
4. This temporary urgency change order will be presented to the Board for review at a meeting within 30 days of its issuance. Should the Board fail or refuse to validate this temporary urgency change order, it shall stand revoked as of the date of said Board meeting and shall be of no further force and effect.

5. Except as expressly provided herein, all terms and conditions of this permit shall remain in effect.
6. This temporary urgency change is issued, and permittee takes it subject to the California Water Code, Division 2, Chapter 6.6, Section 1435 et seq. The temporary urgency change order shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the Board.
7. The Board shall supervise the use of water under the temporary urgency change for the protection of vested rights and instream beneficial uses and for compliance with change order conditions.

Date: February 28, 1989

W. Alan Mayhew  
Board Chairman

P20264

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary Urgency Change Order On Temporary Permit 20264 (Application 29243)	)	ORDER:   WR 89- 3
	)	SOURCE:   South Fork American River
El Dorado Irrigation District, Permittee	)	COUNTY:   El Dorado

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ORDER VALIDATING ISSUANCE OF  
TEMPORARY URGENCY CHANGE ORDER

BY THE BOARD:

The El Dorado Irrigation District (District) having filed a petition for a temporary urgency change in the points of diversion and storage, point of rediversion and distribution in storage pursuant to Chapter 6.6 (commencing with Section 1435, Part 2, Division 2 of the Water code; the Board having consulted with the Department of Fish and Game; Chairman W. Don Maughan concluded from available information that a temporary urgency change order should be issued and having issued said order; and the order being subject to review and validation by the Board as provided by Water Code Section 1435(d) the Board finds as follows:

Substance of the Proposed Change

1. On September 13, 1988, the District obtained Temporary Permit 20264 to divert and store 5,000 acre-feet of water in Jenkinson Lake, behind Sly Park Dam. The water was conveyed to Jenkinson Lake by means of the existing

Pacific Gas and Electric Company El Dorado Canal which diverts water from the South Fork American River near Kyburz and the recently completed Hazel Creek Tunnel which conveys El Dorado Canal water into Hazel Creek,

STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

## PERMIT FOR DIVERSION AND USE OF WATER

TEMPORARY PERMIT 20264Application 29243 of El Dorado Irrigation District2890 Mosquito Road, Placerville, California 95667filed on May 9, 1988, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

## 1. Source:

## Tributary to:

(1) South Fork American RiverAmerican River(2) Alder CreekSouth Fork American River thenceAmerican River(3) Sly Park CreekCamp Creek thenceNorth Fork Cosumnes River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
<u>Diversion and Diversion to Offstream Storage</u>					
(1) <u>North 50°51' West 1,580 feet from SE corner of Section 29</u>	<u>SE½ of SE½</u>	<u>29</u>	<u>11N</u>	<u>15E</u>	<u>MD</u>
(2) <u>South 1°53' East, 3,320 feet from NW corner of Section 36</u>	<u>NW½ of SW½</u>	<u>36</u>	<u>11N</u>	<u>14E</u>	<u>MD</u>
<u>Rediversion - Sly Park Dam</u>					
(3) <u>North 53°45' East 3,250 feet from SW corner of Section 17</u>	<u>NE½ of SW½</u>	<u>17</u>	<u>10N</u>	<u>13E</u>	<u>MD</u>

County of El Dorado

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
<u>Domestic</u>						
<u>Irrigation</u>	<u>Within the service area of the El Dorado Irrigation District as shown on maps filed with the State Water Resources Control Board.</u>					

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water diverted shall be limited to the quantity which can be beneficially used and shall not exceed 50 cubic feet per second by direct diversion and 5,000 acre-feet by storage from October 1, 1988 to February 28, 1989. The total amount of water to be taken from the sources shall not exceed 5,000 acre-feet.

(0000005)

The maximum rate of diversion to offstream storage shall not exceed 50 cubic feet per second.

(000005J)

6. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this temporary permit including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this temporary permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

(0000012)

7. This temporary permit shall not be construed as conferring upon the permittee right of access to the points of diversion or to other facilities not owned by permittee.

(0000022)

8. Diversion under this temporary permit is contingent upon permittee entering into written agreements with Pacific Gas and Electric Company and the United States Bureau of Reclamation.

(0510300)

9. Permittee's operations shall not change the operation or drawdown of Pacific Gas and Electric Company's reservoirs, or any required bypass flows, as described in the Federal Energy Regulatory Commission license for Project 184.

(0450800)

10. Water diverted under this temporary permit shall be conveyed into Jenkinson Lake through the existing Sly Park Intertie only unless subsequent approval is given by the Board.

(0560900)

11. The State Water Resources Control Board reserves jurisdiction over this temporary permit to change the season of diversion to conform to later findings of the Board concerning availability of water and the protection of beneficial uses of water in the Sacramento-San Joaquin Delta and San Francisco Bay. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.

(0000080)

12. Permittee is put on notice that during portions of the authorized season of diversion the permitted amount of water may not be available for appropriation. The season of diversion may be reduced by order of the Board after notice to interested parties and an opportunity for a hearing.

(0000090)

13. This temporary permit shall automatically expire on February 28, 1989 without further action by the State Water Resources Control Board.

(0510700)

14. This temporary permit is issued and permittee takes it subject to California Water Code, Division 2, Chapter 6.5, Section 1425 et seq. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the Board.

(0510800)

15. The State Water Resources Control Board shall supervise diversion and use of water under this temporary permit for the protection of legal users of water and instream beneficial uses and for compliance with permit conditions. The Board retains authority to add, delete, or modify the terms and conditions of this temporary permit should any change be proposed in the manner in which water is diverted or conveyed. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this temporary permit.

(0510600)

(0000011)



16. Permittee shall report monthly to the State Water Resources Control Board by the 15th of the following month the maximum rate of diversion and the quantity of water diverted under this temporary permit.

(0100700)

17. No construction shall be commenced on the proposed Hazel Creek Tunnel until that facility has been approved by permittee, as lead agency, and the State Water Resources Control Board, as a responsible agency, in compliance with those provisions of the California Environmental Quality Act applicable to non-emergency projects.

(0430500)

***This permit is issued and permittee takes it subject to the following provisions of the Water Code:***

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: SEPTEMBER 13 1988

STATE WATER RESOURCES CONTROL BOARD

*Walter S. Pettit*  
Chief, Division of Water Rights